

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Emilio Evalio Arenas,

Petitioner

v.

Warden, High Desert State Prison, et al.,

Respondents

Case No. 2:22-cv-01714-JAD-DJA

**Order Granting Stay and Abeyance**

ECF No. 7-1

Petitioner Emilio Arenas filed a *pro se* petition for writ of habeas corpus under 28 U.S.C. § 2254 to challenge his Nevada state-court conviction for first-degree murder with use of a deadly weapon and first-degree kidnapping with use of a deadly weapon.<sup>1</sup> He also asked the court to stay proceedings in this case until his pending state post-conviction proceedings are concluded.<sup>2</sup> I ordered respondents to respond Arenas' request.<sup>3</sup> Because respondents state that they do not oppose the request,<sup>4</sup> I exercise my discretion to grant a stay and hold proceedings in abeyance until Arenas completes litigation of his state proceedings.<sup>5</sup>

IT IS THEREFORE ORDERED that petitioner Arenas's request to stay proceedings (ECF No. 7-1) is **GRANTED**. This action is stayed pending completion of Arenas's pending state post-conviction proceedings.

<sup>1</sup> ECF No. 7.

<sup>2</sup> ECF No. 7-1.

<sup>3</sup> ECF No. 6.

<sup>4</sup> ECF No. 9.

<sup>5</sup> See *Rhines v. Weber*, 544 U.S. 269 (2005); see also *Pace v. DiGuglielmo*, 544 U.S. 408, 416, (2005) (recognizing that a prisoner seeking state post-conviction relief might preserve the timeliness of his federal petition by filing a "protective" federal petition and asking the federal court to stay proceedings).

1 IT IS FURTHER ORDERED that the stay is conditioned upon Arenas returning to this  
2 court with a motion to reopen within **45 days** of issuance of the remittitur by the Supreme Court  
3 of Nevada at the conclusion of the state court proceedings.

4 The Clerk is directed to ADMINISTRATIVELY CLOSE this action.

5 Dated: January 23, 2023

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8 U.S. District Judge Jennifer A. Dorsey  
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